

**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORTLAND DIVISION**

**NORTHWEST BANK f/k/a NORTHWEST SAVINGS BANK**, a Pennsylvania state-chartered savings association,

Plaintiff,

v.

**MCKEE FAMILY FARMS, LLC**, an Oregon limited liability company; **SCHARF FARMS, INC.**, an Oregon corporation; **DUSTIN WILFONG**, individually and dba **DUSTIN WILFONG FARMS**; **DENNY WILFONG**, individually and dba **WILFONG FARM'S**; **K & J FARMS, LLC**, an Oregon limited liability company; **CREEKSIDE VALLEY FARMS LLC**, an Oregon limited liability company; **ALFRED V. MULLET**; **SJB FARMS, LLC**, an Oregon limited liability company; **KAUER FAMILY FARMS, LLC**, an Oregon limited liability company; **DAN G. FANNING**, individually and dba **FANNING FARMS**; **CLARKE ELLINGSON**; **GILBERT & SON, INC.**, an Oregon corporation; **KEN CRUICKSHANK FARMS, INC.**, an Oregon corporation; **LARRY BURGER**; **DOERFLER FARMS, INC.**, an Oregon corporation; **GOLDEN VALLEY FARMS, LLC**, an Oregon limited liability company; **ZEIGLER FARMS, LLC**,

Case No. 3:15-CV-01576

**STIPULATED ORDER CONVERTING  
TEMPORARY RESTRAINING ORDER  
TO PRELIMINARY INJUNCTION**

Oregon limited liability company; **JANZEN FARMS LLC**, an Oregon limited liability company; **EDIGER FARMS, LLC**, an Oregon limited liability company; **JOHN IMLAH** and **MARGY IMLAH**, individually and dba **HOOD VIEW FARMS**; **DARYN BRUTKE**; **ANTHONY DERAEEVE**; **RAINBOW HILL RANCH, INC.**, an Oregon corporation; **ROHDE GENERATIONS INC.**, an Oregon corporation; **M. GRANT RICE**; **KEITH B. DEJONG**; **MATTHEW J. RICE**; **DEAN C. DODSON**; **RYAN KADELL**; **ROBIN KADELL**; **MT. HOPE SEED CO., INC.**, an Oregon corporation; **RIDDELL FARMS, INC.**, an Oregon corporation; **GARY CROSSAN FARMS, LLC**, an Oregon limited liability company; **PAUL H. COUSSENS FARMS, LLC**, an Oregon limited liability company; **PHIL SPIESS**; **TIM PFEIFFER**; **KCK FARMS, LLC**, an Oregon limited liability company; **CARLTON SEED, LLC**, an Oregon limited liability company; **MEADOW RIDGE FARMS, INC.**, an Oregon corporation; **MARK W. GEHRING** and **CAROL A. GEHRING**, individually and dba **GEHRING FARMS**; **TRIPLE K, LLC**, an Oregon limited liability company; **LARRY D. BELL**; and **INTEGRATED SEED GROWERS, LLC**, an Oregon limited liability company,

Defendants.

**THIS MATTER** previously came before the Honorable Michael W. Mossman on August 21, 2015 on Plaintiff's *Ex Parte* Application for Entry of Temporary Restraining Order and Preliminary Injunction ("Application"), against Defendant Riddell Farms, Inc. ("Defendant" or "Riddell"). Subsequent to the entry of the temporary restraining order ("TRO"), the parties now further agree that the TRO may be converted to a preliminary injunction ("Injunction").

Therefore, Plaintiff Northwest Bank ("NWB") and Riddell stipulate, pursuant to Fed. R. Civ. P. 65 for immediate entry of a preliminary injunction against Riddell on the following terms:

**IT IS ORDERED AND ADJUDGED** that the Injunction is hereby **GRANTED** as follows:

1. Riddell, their officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with Riddell having prior actual notice of the TRO or of this Order are hereby enjoined from the sale or other disposal of the 2014 Radish Seed<sup>1</sup>. The 2014 Radish Seed is in and is to remain in Riddell's possession, properly insured at all times, until further order of the Court and/or stipulation of the parties;

2. Riddell, their officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with Riddell having prior actual notice of the TRO or of this Order are hereby enjoined from taking any additional seed from either of the warehouses owned by McKee Family Farms, LLC located at 11640 Elkins Road, Monmouth, OR 97361 and 22450 SW McKee Road, Amity, OR 97101;

3. Riddell, their officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with Riddell having prior actual notice of the TRO or of this Order shall provide an accounting to NWB of any proceeds from the sale of the 2014 Radish Seed that has occurred to date within fourteen (14) days of entry of this Order, and either:

(1) tender such amounts to the Court pending the outcome of this matter or (2) hold such sale proceeds in escrow pending issuance of final judgment by this Court on the priority of liens set forth in the Complaint;

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<sup>1</sup> "2014 Radish Seed" refers to the seed listed by lot number in the Settlement Sheet For Riddell Farms 2014 Radish Crop, attached to the Indemnity Agreement between McKee and Riddell. (*See Creal Dec.*, Ex. I).

4. This Injunction shall remain in effect until further Order by the Court or stipulated by the parties;

5. Pursuant to Fed. R. Civ. P. 65(c), NWB has posted an irrevocable letter of credit issued by NWB in the amount of Five Thousand Dollars and Zero Cents (\$5,000.00) as payment of damages to which Riddell may be entitled for a wrongful injunction or restraint, during the pendency of this action, or until further Order of the Court;

6. Based on the above stipulation to convert the TRO to the Injunction, the parties request that the Court strike the hearing on NWB's Motion for Preliminary Injunction scheduled for the 31st day of August, 2015, at 4:00 PM, Courtroom 16, of the U.S. District Courthouse, 1000 SW Third Avenue, Portland, Oregon.

7. **SERVICE**. A copy of this Order and of the Complaint filed in the above matter, together with all supporting papers, shall be served by NWB upon Riddell by hand delivery, regular mail, or electronic mail within two business days following NWB's receipt thereof; Riddell's counsel has agreed to accept service of the Order as well.

**DONE AND ORDERED** in Chambers as the U.S. District Courthouse, 1000 SW Third Avenue, Portland, Oregon, this 26th day of August, 2015, at 3:57 ~~XX~~PM.

/s/ Michael W. Mosman  
United States District Court Judge

Submitted by:

s/ Kimberly Sugawa-Fujinaga  
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